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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,043	02/14/2002	Gregory M. Chrysler	2207/12666	7585
23838	7590	03/08/2004	EXAMINER	
KENYON & KENYON 1500 K STREET, N.W., SUITE 700 WASHINGTON, DC 20005			LA VILLA, MICHAEL E	
			ART UNIT	PAPER NUMBER
			1775	
DATE MAILED: 03/08/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/074,043

Applicant(s)

CHRYSLER ET AL.

Examiner

Michael La Villa

Art Unit

1775

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 18-29.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

La Villa 2/21/04

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's response does not address the section 112, first paragraph rejection, and so the rejection is maintained. With respect to the section 112, second paragraph rejections, applicant traverses. Applicant suggests that alternative meanings of "thickness just enough to cover a roughness" are not reasonable because they would imply surface peaks all of the same height and because layer 5 of Figure 3 depicts what is claimed. Nevertheless, the claim could be drafted to describe the situation of layer 5, obviating the indefiniteness. A covering layer, meeting the claim language but disavowed by applicant's argument, could be one that follows the topography of the underlying surface and thereby has a nonuniform upper surface topography of its own. For this reason there is indefiniteness, and so the rejection is necessary. Applicant suggests that "predetermined" means "being in a range to allow attachment" and provides effective numerical values. At the bottom of page 4, applicant may be suggesting an amendment to overcome this rejection over the term "predetermined." The suggested phraseology would appear to obviate the rejection by eliminating the indefinite "predetermined" term. There is no reason, in reading the claim as currently pending, to limit the claim in the manner argued. Hence, the rejections are maintained.

CaMh

2/27/04